

### **Remarks**

This Amendment is submitted in response to the office action of October 7, 2004 in which all of claims 1-60 were finally rejected under either §102 or § 103.

Applicant previously requested substitution of the title as an aptly descriptive and appropriate variant of that proposed in the office action of January 29, 2004. The current office action did not address the request. Favorable consideration is again requested.

### **The Amendments Put the Claims in Condition for Allowance And Their Entry is Appropriate**

Independent claims 24, 29 and 45 have been amended to more clearly define the invention from the perspective that "time" is a feature in determining probability. No amendments have been made to the remaining dependent claims.

As we understand the analysis presented, the prior office action did not accept the applicant's position that as properly interpreted, the original claims delineated a method in which the probability of winning a jackpot is determined by two factors:

1. the amount wagered on a gaming machine; and
2. an elapsed time period having a starting and a finish point.

It thus appeared that the office action did not give any limiting or distinguishing weight to the words "during an elapsed period" in the independent claims. The amendments now presented address that issue and, we respectfully submit, patentably distinguish them over the prior art.

It also seems, particularly from paragraph 11 of the office action, that insufficient weight has been given to the limitation of the claims being directed to **jackpot systems**. As defined by applicant, jackpot systems are limited to systems in which a plurality of gaming machines are all connected and the players are not only playing to win a game on each of their respective machines, but also to win the jackpot. In all of the prior art systems of which applicant is aware, each time a player pulls the handle or presses the button, the probability of winning the jackpot is a preset base probability which may be factored up by the amount wagered on that game. The base probability does not depend on the number of games which have gone before and it does not depend on time. It simply depends on the preset probability and the amount wagered on that game. The next time the player pulls the handle, the probability of winning the jackpot is again a preset probability which may be factored up according to the amount wagered on that game.

It is to be noted that claim 1 is directed to "gaming machines" and not "players". Claim 1 does not refer to the chances of "a person" winning a prize during a predetermined period, but rather the chance of a "gaming machine" winning the prize. Thus, claim 1 is not concerned with a player remaining in a casino for 15 minutes, 30 minutes, 2 hours, or any other predetermined period of time; rather, the claim is directed to the probability of a particular machine winning the jackpot. None of the prior art teaches a system in which the probability of a particular gaming machine winning the jackpot prize depends on the amount wagered on that machine throughout a predetermined period. Thus, the points raised in paragraph 11 of the office action are not relevant to claim 1 or to the other independent claims.

While the Examiner may be generally correct that a player who plays a machine 100 times has twice the odds of winning as the player who only plays 50 times, from the perspective of the gaming machines, the fact that one machine has been played 100 times does not affect the

probability of that machine winning the draw on the next press of the button or pull of the lever. That probability is preset in the machine and if it were not preset and the dependent relationship suggested in the office action existed in the machines, the machines would be “deterministic” and not allowable machines. However, we have also included the words “**and only that**” to make clear the limitation that the dependent relationship is considering **only** the amount wagered on the machine whose probability of winning is being determined.

To summarize, the claimed subject matter, when properly analyzed in the context explained above, and in the response to the previous office action, is directed to novel features for operating a gaming machine that are neither anticipated by, nor rendered obvious by the prior art of record.

### **Conclusion**

Favorable reconsideration of amended independent claims 24, 29 and 45 is respectfully requested. We believe that entry of the requested amendments further limits the claims to distinguish the respective apparatus, system and method claims from the prior art, particularly when it is kept in mind that the claims are directed to “gaming machines” and not “players”.

Should the Examiner wish to discuss any remaining issues of form that can be resolved to put the claims in condition for allowance, applicant requests that a telephone interview with the undersigned be initiated.

Prompt action on this Amendment is respectfully requested in view of the final six-month term of April 7, 2005.

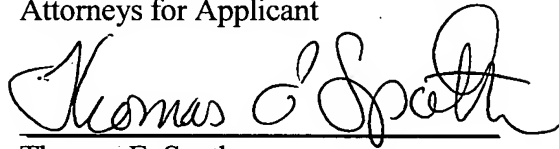
**Extension of Time**

Applicant is submitting a separate Petition for a two-month extension of time.

Respectfully submitted,

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By

A handwritten signature in cursive script, reading "Thomas E. Spath", written over a horizontal line.

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